

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814



September 13, 1994

ALL-COUNTY LETTER NO. 94-78

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY PROBATION OFFICERS
ALL COUNTY COUNSELS
ALL CCL REGIONAL OFFICES
ALL CCL DISTRICT OFFICES

REASON FOR THIS TRANSMITTAL

- ☒ [X] State Law Change
- ☐ [] Federal Law or Regulation Change
- ☐ [] Court Order or Settlement Agreement
- ☐ [] Clarification Requested by One or More Counties
- ☐ [] Initiated by CDSS

SUBJECT: ASSEMBLY BILL (AB) 2129 (CHAPTER 1089, STATUTES OF 1993) AND
SENATE BILL (SB) 426 (CHAPTER 892, STATUTES OF 1993) REGARDING
RELATIVE FOSTER CARE LEGAL CONSENT AUTHORITY AND PLACEMENT

REFERENCES: ACL 92-23 and 92-92, ACIN I-08-94

The purpose of this letter is to inform you of changes in the laws which:

- o Allow the courts to authorize additional legal consent authority for relatives who are providing long-term foster care, and
- o Specify new provisions regarding foster care placement with relatives.

These provisions became effective January 1, 1994.

AB 2129 (Chapter 1089, Statutes of 1993):

AB 2129 served as a foster care initiative omnibus bill which revised several sections of the Health and Safety Code and the Welfare and Institutions Code (WIC) relating to foster care.

The bill added section 366.27 to the WIC. This change allows the courts to give relatives who are providing long-term foster care (pursuant to the permanency planning hearing) the same legal consent authority as custodial parents for the child's medical, surgical and dental care, and for their education.

The bill also amended section 727 of the WIC. This change allows the court to give the same legal consent authority described above to relatives who are providing temporary or long-term foster care to wards of the court.

The scope of the legal authority specified in WIC sections 366.27 and 727 partially overrides the provisions of section 31-401.4 of the Manual of Policies and Procedures (MPP). The Foster Care Policy Bureau (FCPB) will soon begin preparation of the necessary amendments to these regulations.

SB 426 (Chapter 892, Statutes of 1993):

SB 426 made changes to section 361.3 of the WIC regarding children in foster care placement. The new provisions regarding placement with relatives are:

1. The county social worker must further investigate the existence of other relatives for possible placement and document those efforts in the child's social study or evaluation. If more than one relative requests consideration, each relative must be evaluated using the factors described in WIC section 361.3(a). This investigation shall not be considered good cause for continuance of the dispositional hearing. [See WIC section 361.3(a)]
2. The following additional factors must be considered by the social worker and the court when evaluating a relative: [See WIC section 361.3(a)]
 - o The best interests of the child, including special physical, psychological or emotional needs.
 - o The wishes of the parents.
 - o The provisions of the Family Code regarding priorities for foster care placement, commencing with section 7950 (formerly Civil Code section 275).

NOTE: The Family Code consolidated sections of several codes, including the Civil Code, and became effective January 1, 1994. Section 7950(a)(1) requires that diligent efforts be made in locating an appropriate relative with whom to place the child in long-term foster care. Any relative who requests to be considered or has been referred for consideration must be evaluated. [See ACL 92-23]

- o Placement of siblings and half-siblings in the same home, if such a placement is found to be in the best interest of each of the children.
3. After the dispositional hearing, whenever a new placement of the minor must be made, preferential consideration must again be given to relatives who have not been found to be unsuitable, and who will fulfill the child's reunification or permanent placement requirements. In addition to the factors specified in WIC section 361.3, the social worker and the court must consider whether the relative has established and maintained a relationship with the minor. If the court does not place the child with a relative who was considered for placement, the court is required to record the reason the placement was denied. [See WIC section 361.3(d)]

The FCPB is currently analyzing the MPP Division 31 regulations to determine if any changes are necessary due to the provisions of SB 426.

If you have any questions regarding this information, please contact the FCPB at (916) 445-0813.



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Children and Family Services Division